

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

IN RE: NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS LIABILITY  
LITIGATION

This Document Relates to:  
All Cases

---

)  
)  
)  
) MDL No. 1:13-md-2419-RWZ  
)  
)  
)

**JOINDER OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO  
CHAPTER 11 TRUSTEE'S MOTION FOR ENTRY OF SUPPLEMENTAL  
ORDER TRANSFERRING ADDITIONAL WRONGFUL DEATH CASE**

The Official Committee of Unsecured Creditors (the "Official Committee") of New England Compounding Pharmacy, Inc. ("NECC"), by and through its undersigned counsel, respectfully submits this joinder (the "Joinder") to the *Chapter 11 Trustee's* (the "Trustee") *Motion for Entry of Supplemental Order Transferring Additional Wrongful Death Case* [Dkt. No. 1252] (the "Motion").<sup>1</sup> In support of this Joinder, the Official Committee respectfully states as follows:

**BACKGROUND**

1. On February 12, 2013, the Judicial Panel on Multidistrict Litigation entered an order establishing this multidistrict litigation and transferring actions against NECC and/or its affiliates involving contaminated methylprednisolone acetate ("MPA") to this Court for consolidated pretrial proceedings.

2. On June 5, 2014, this Court entered an Order [Dkt. No. 1173] (the "Roanoke Transfer Order") transferring to this Court twenty (20) personal injury and wrongful death cases involving contaminated MPA (the "Virginia State Court Cases") against Insight Health Corp.

---

<sup>1</sup> Capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

(“Insight”) and certain other defendants from the Roanoke City Circuit Court to this Court.

3. Subsequent to the entry of the Roanoke Transfer Order, an additional case styled *Larry D. Gaskins, Executor of the Estate of Miriam G. Warren, deceased v. Insight Health Corp., et al.* (Case No. CL14-1183) (the “Gaskins Action”) was commenced in the Roanoke City Circuit Court, where it remains pending. The Gaskins Action is a wrongful death case involving contaminated MPA and, accordingly, is of a piece with the Virginia State Court Cases already transferred to this Court (i.e., personal injury and wrongful death actions against Insight arising from the administration of tainted MPA).

4. On July 8, 2014, the Trustee filed the Motion, seeking entry of a supplemental order transferring the Gaskins Action to this Court.

### **JOINDER**

5. The Official Committee support the Trustee’s request for entry of a supplemental order transferring the Gaskins Action to this Court and joins the Trustee in his Motion (the arguments and authorities of which are incorporated as if fully set forth herein).

6. The Official Committee respectfully submits that transfer of the Gaskins Action will ultimately benefit the individuals injected with tainted NECC MPA by facilitating coordination of all these cases before Your Honor and the resolution of claims against Insight through mediation. Insight, one of the largest recipients of tainted MPA and an organization with substantial resources, is involved in discussions with the Trustee, the Official Committee and other parties regarding its participation in mediation. The Official Committee is hopeful that transfer of the Gaskins Action will further facilitate mediation by enabling this Court to exercise jurisdiction over, supervise and coordinate the actions pending against it. In this way, transfer will enable this Court to continue to provide consolidated case management (such as stays of

discovery pending mediation) with respect to all MPA-related actions against Insight, allowing mediation with Insight to proceed efficiently and expeditiously towards the parallel goals of (i) resolving the multitude of claims against Insight, and (ii) obtaining significant contributions from Insight to a common fund for distribution to victims of NECC's tainted MPA through a chapter 11 plan.

### **CONCLUSION**

7. For the reasons set forth in this Joinder, the Official Committee respectfully requests that this Court (a) enter an Order transferring the Gaskins Action to this Court, and (b) grant such other and further relief as this Court deems necessary or appropriate.

Dated: July 9, 2014  
Boston, Massachusetts

Respectfully submitted,

**BROWN RUDNICK LLP**

By: /s/ David J. Molton  
David J. Molton, Esq.  
Seven Times Square  
New York, New York 10036  
Telephone: (212) 209-4800  
Facsimile: (212) 209-4801  
dmolton@brownrudnick.com

and

William R. Baldiga, Esq.  
Kiersten A. Taylor, Esq.  
One Financial Center  
Boston, Massachusetts 02111  
Telephone: (617) 856-8200  
Facsimile: (617) 856-8201  
wbaldiga@brownrudnick.com  
ktaylor@brownrudnick.com

*Counsel to the Official Committee of Unsecured  
Creditors of New England Compounding  
Pharmacy, Inc.*

**CERTIFICATE OF SERVICE**

I, Michael A. Jackson, hereby certify that on July 9, 2014, I caused a copy of the foregoing Joinder of The Official Committee of Unsecured Creditors to Chapter 11 Trustee's Motion for Entry of Supplemental Order Transferring Additional Wrongful Death Case to be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants, by first class mail, postage prepaid.

Dated: July 9, 2014  
Boston, Massachusetts

/s/ Michael A. Jackson  
Michael A. Jackson